

Remarks

This reply is submitted in reply to the Advisory Action and replaces the previously submitted reply. The only change being made is that a new terminal disclaimer is being submitted in view of the objection to the previously submitted terminal disclaimer. It is respectfully submitted that the previously submitted terminal disclaimer is in accord with the statute, rules and case law, as the language "and extensions thereof" reflect the fact that the term of any patent issuing from the present application would be extended to coincide with termination of the earlier patent if the term of such earlier patent was extended, such as by an act of Congress. Nevertheless, the terminal disclaimer now being submitted is the form provided by the Office. The terminal disclaimer fee has already been paid.

The balance of these remarks are as previously submitted.

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

Status of Claims

Claims 1-54 are pending. Claims 8 and 13 were withdrawn from consideration as being drawn to a nonelected species. Claims 6 and 7 were rejected as indefinite. Claims 1-7, 9-12, 14-18, 23, 32-35 and 37-45 were rejected on the ground of non-statutory obviousness type double patenting. Claims 13, 19-22, 24-31 and 46-54 were indicated to be allowable.

Double Patenting

Although issue is taken, a terminal disclaimer is submitted herewith to obviate the double patenting rejection. Accordingly, claims 1-7, 9-12, 14-18, 23, 32-35 and 37-45 are now allowable along with claims 13, 19-22, 24-31 and 46-54.

In view of the allowability of claims 1-7, 9-35 and 37-54, withdrawn claims 8 and 36 should now be restated since they depend from an allowable generic or linking claim.

Claim Rejections - 35 USC § 112

The only remaining rejection is the rejection of claims 6 and 7 as indefinite. Although exception is taken, claim 6 has been amended to change "running substantially the length" to "run along the length".

Regarding the objection to the term "elongate", claim 6 has been amended to specify the sample of microstructured material is longer in length than width and the one or more holes are longer in length than width. Accordingly, this aspect of the rejection is now moot.

Conclusion

In view of the foregoing, all of claims are now in proper form for allowance and request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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